

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

AT CHARLESTON

MALINDA PARRISH, individually and as
Administratrix for the Estate of Steven F.
Parrish and **JOSHUA E. PARRISH, GARRETT B.
PARRISH, CATTARINA M. PARRISH, and
TUCKER S. PARRISH**, minors, by their next
friend, **MALINDA PARRISH**,

Plaintiffs,

v.

CIVIL ACTION NO. 2:04-0020

FORD MOTOR COMPANY,
a Delaware Corporation,

Defendant.

**ORDER APPROVING AND DIRECTING SETTLEMENT
AND DISTRIBUTION OF SETTLEMENT PROCEEDS**

On the 23rd of November, 2004 came the Petitioner, Malinda Parrish, as Administratrix of the Estate of Steven F. Parrish, by her Counsel, James M. Barber, and came Respondent, Ford Motor Company, by its Counsel, Michael Bonasso, Alonzo D. Washington, and Flaherty, Sensabaugh and Bonasso, PLLC, and William W. Pepper, designated as Guardian Ad Litem for Joshua E. Parrish, Garrett B. Parrish, Cattarina M. Parrish, and Tucker S. Parrish, minors, pursuant to an Order entered by this Court and the Petition, as amended, filed herein.

WHEREUPON, as a preliminary matter, counsel for Malinda Parrish, as Administratrix of the Estate of Steven F. Parrish, tendered to the Court her "Petition to Appoint Guardian Ad Litem and For Approval of Wrongful Death Settlement" requesting the Court approve and confirm the proposed settlement and compromise set forth in the Petition. Counsel for Malinda Parrish, as Administratrix of the Estate of Steven Parish also tendered to the Court, an "Amended Petition" further requesting that

ENTERED

DEC 30 2004

**TERESA L. DEPPNER, CLERK
U.S. District & Bankruptcy Courts
Southern District of West Virginia**

the Court confirm and approve the distribution of the settlement proceeds amongst the distributees of the Estate of Steven F. Parrish as follows:

1. Malinda Parrish \$25,001.00
2. Joshua Parrish \$6,249.75
3. Garrett Parrish \$6,249.75
4. Cattarina Parrish \$6,249.75
5. Tucker Parrish \$6,249.75

Petitioner further advised the Court that former counsel for petitioner, Shannon Bland, has waived all fees and expenses, and, accordingly, the same were not required to be approved for distribution from the settlement proceeds.

WHEREUPON, came William W. Pepper, Guardian Ad Litem, who examined said Petitions and made an independent and full investigation of the matters and things therein set forth, and tendered to the Court his Answer to the Petitions, wherein he recommended approval of the settlement tentatively agreed upon, which Answer is duly verified, and the same having been seen and inspected by the Court, is hereby ORDERED filed.

WHEREUPON, the Answer further recommended that the settlement proceeds be distributed amongst the following distributees equally:

1. Malinda Parrish;
2. Joshua Parrish (D.O.B. 02/02/89);
3. Garrett Parrish (D.O.B. 10/29/92);
4. Cattarina Parrish (D.O.B. 06/14/96); and

5. Tucker Parrish (D.O.B. 12/31/97).

WHEREUPON, the Answer further recommended that the distributive share of the minor children, Joshua E. Parrish, Garrett B. Parrish, Cattarina M. Parrish, and Tucker S. Parrish, be invested in a secure investment vehicle so as to become the property of each child at the age of majority.

WHEREUPON, the Petitioner, Malinda Parrish, appearing and having been first duly sworn, gave testimony before the Court in support of the allegations in the Petition as amended. Petitioner further testified that the following distributees pursuant to W.Va. Code §§ 55-7-6 and 55-7-7 waive, in writing, any right to participate in the settlement distribution: (1) Earl F. Parrish; (2) Mary Ann Parrish; and (3) Julie A. Dyke. Lastly, petitioner testified that the following distributees are the sole distributees of the Estate of Steven F. Parrish pursuant to W.Va. Code §§ 55-7-6 and 55-7-7: (1.) Malinda Parrish; (2.) Joshua E. Parrish; (3.) Garrett B. Parrish; (4.) Cattarina M. Parrish; (5.) Tucker S. Parrish; (6.) Earl F. Parrish; (7.) Mary Ann Parrish; and (8.) Julie A. Dyke, and that no other person is entitled to share in the settlement distribution.

WHEREUPON, counsel for the respondent, Ford Motor Company, advised the Court that it had no objection to the proposed compromise and settlement of claims against Ford Motor Company and that Ford Motor Company would not contend the settlement was anything but a good faith settlement under West Virginia law.

The Court, having considered the matters and allegations set forth in the Petition and the evidence presented, and upon a review of the documents made a part of the record in this case makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Pursuant to W.Va. Code § 55-7-7 and *Estate of Postalewait v. Ohio Valley Med. Center, Inc.*, No. 31406 (W.Va., Dec. 3, 2003), any compromise of a claim for death by wrongful act must be approved by the Court where the claim is pending.

2. In approving a compromise of a wrongful death action, the Court shall apportion the compromise agreed upon and direct in what portions it may be distributed.

3. The compromise and settlement of claims against Ford Motor Company for the lump sum of Fifty Thousand and 00/100 Dollars (\$50,000.00) is fair, reasonable and in the best interests of the Estate of Steven F. Parrish. In the event that the settlement check is made payable to Malinda Parrish, as Administratrix of the Estate of Steven F. Parrish, it shall have the same force and effect as if the check were made payable to Malinda Parrish, individually and as Administratrix of the Estate of Steven F. Parrish and Joshua E. Parrish, Garrett B. Parrish, Cattarina M. Parrish, and Tucker S. Parrish, minors, by their next friend, Malinda Parrish.

4. The compromise and settlement of claims against Ford Motor Company represents a good faith settlement under West Virginia law and serves to extinguish any claims for contribution any joint tortfeasor may have against Ford Motor Company. *Hager v. Marshall*, 202 W.Va. 577, 505 S.E.2d 640 (1998); *Dunn v. Kan. County Bd. of Ed.*, 194 W.Va. 40, 459 S.E.2d 151 (1995).

5. The attorney fees, costs and expenses incurred by or on behalf of the Estate of Steven F. Parrish, deceased, are waived by petitioner's former counsel, Shannon Bland, and the Court finds that payment of any such attorney fees, costs and expenses may not be made out of the settlement proceeds.

6. Malinda Parrish, individually and as Administratrix of the Estate of Steven F. Parrish and as next friend of Joshua E. Parrish, Garrett B. Parrish, Cattarina M. Parrish, and Tucker S. Parrish, is hereby authorized, directed and empowered to execute a release for the benefit of, Ford Motor Company, releasing, acquitting and forever discharging Ford Motor Company of and from all liability, of whatever nature, arising out of or in any way connected with the death of Steven F. Parrish.

7. Ford Motor Company is directed to pay the Guardian Ad Litem Two Thousand Dollars (\$2,000.00) for Ten (10) hours of services rendered at Two Hundred Dollars (\$200.00) per hour in this matter.

8. That the settlement proceeds shall be distributed as follows:

a.	Malinda Parish	\$25,001.00
b.	Joshua Parrish	\$6,249.75
c.	Garret Parrish	\$6,249.75
d.	Cattarina Parrish	\$6,249.75
e.	Tucker Parrish	\$6,249.75

9. Malinda Parrish shall pay her \$25,001.00 portion of the settlement proceeds towards purchasing the farm where she and the four subject children reside, pursuant to a modified purchase agreement recently entered into with the seller of such property. Title will be held in the name of the trust entitled "Children of Stephen Parrish Trust Fund" subject to a deed of trust for \$43,000.00, the unpaid principal sum owed.

10. Malinda Parrish shall purchase a \$6,249.75 interest bearing certificate of deposit in the name of each of the four children at Poca Valley Bank of Walton, West Virginia, a regulated financial institution, with a maturity date as close as possible to the date each child attains the age of eighteen

(18) years of age with the principal and all accumulated interest becoming the property of each child once each child becomes eighteen (18) year of age and being payable by the Poca Valley Bank only to each said child upon presentation of proper identification after the minor child attains the age of maturity.

11. Pursuant to West Virginia Code Section 44-10-4(h) (4), the Court does waive all of the requirements regarding reference to a fiduciary officer, the filing of the order or of any other reports or statements of accounts with a fiduciary commission or supervisor of the County Commission, the post of bond and/or other surety of bond and any listings and publication of accounts, since the required settlement proceeds of each child is less than \$25,000.00

It is, therefore, ORDERED, ADJUDGED and DECREED that the compromise and settlement of the claims against Ford Motor Company be and the same are hereby APPROVED and CONFIRMED as set forth above in the Findings of Fact and Conclusions of Law. It further appearing to the Court that the above-captioned civil action has been settled, compromised and adjusted by and between the Estate of Steven F. Parrish and the defendant, Ford Motor Company, and for good cause shown, it is hereby ORDERED, ADJUDGED and DECREED that all claims asserted in the above-captioned civil action against the defendant, Ford Motor Company be and the same are hereby DISMISSED, with prejudice.

The Clerk is ORDERED to enter this Order and forward a copy to all counsel of record below:

James M. Barber, Esquire
604 Virginia Street East, 2nd Floor
Charleston, WV 25301
Counsel for Petitioner


Michael Bonasso, Esquire
Alonzo D. Washington, Esquire
Flaherty, Sensabaugh & Bonasso, P.L.L.C.
P.O. Box 3843
Charleston, WV 25338
Counsel for Respondent Ford Motor Company

William W. Pepper, Esquire
Pepper Nason & Hayes
8 Hale Street, Suite 100
Charleston, WV 25301
*Guardian Ad Litem for Joshua E. Parrish, Garrett B. Parrish,
Cattarina M. Parrish, and Tucker S. Parrish*

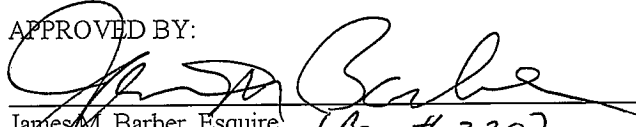
ENTERED THIS 30 DAY OF December, 2004.

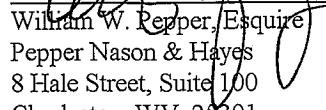

The Honorable John Thomas Copenhaver, Jr.

PREPARED BY:


Michael Bonasso (WV Bar No. 394)
Alonzo D. Washington (WV Bar No. 8019)
Flaherty, Sensabaugh & Bonasso, P.L.L.C.
200 Capitol Street
P.O. Box 3843
Charleston, WV 25338-3843
Counsel for Respondent

APPROVED BY:


James M. Barber, Esquire (Bar # 230)
604 Virginia Street East, 2nd Floor
Charleston, WV 25301
Counsel for Petitioner


William W. Pepper, Esquire
Pepper Nason & Hayes
8 Hale Street, Suite 100
Charleston, WV 25301
Guardian Ad Litem for Joshua E. Parrish, Garrett B. Parrish, Cattarina M. Parrish, and Tucker S. Parrish